

## **REMARKS**

In this response, claims 1-25 remain pending in the application. Reconsideration of the application and allowance of the pending claims are respectfully requested based upon the remarks below.

Claims 1-7, 11, 13-14, 16-17, and 20-25 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claim 1 and 5-11 of copending Application No. 10541253 in view of Kolev et al. (U.S. Patent No. 6,125,283 B1). In response, a terminal disclaimer is being filed to overcome the provisional rejection based on the nonstatutory double patenting ground. Accordingly, the rejection is now moot.

In addition, with respect to claims 1, 11 and 21, applicants respectfully submit that Kolev does not disclose the use of a deny message, which is generated **based on the failure to establish connection between the hybrid access terminal and the 1xEV-DO access network transceiver subsystem** (see Specification, Page 10, Lines 5-17), rather, Kolev discloses the use of a deny message, which is generated based on the validity of a mobile terminal's subscriber identification (see Kolev, Column 3, Lines 8-11). For at least this reason, claims 1, 11 and 21 should be patentable and the rejection should be withdrawn.

In addition, claims 2-7, 13-14, 16-17, 20 and 22-25 depend, either directly or indirectly, from claims 1, 11 and 21, include further important limitations, and are patentable over U.S. Application No. 10541253 and Kolev for at least the reason above with respect to claims 1, 11 and 21, and the rejection should be withdrawn.

Claim 8 is provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claim 1 of the copending Application No. 10541253 in view of Kolev et al. (U.S. Patent No. 6,125,283 B1) and further in view of Lee et al. (U.S. Patent No. 6,842,619). Applicants respectfully traverse this rejection.

With respect to claim 8, applicants respectfully submit the combination of U.S. Application No. 10541253, Kolev, and Lee does not disclose **a high-rate data transmission service with a maximum power when transmitting the high-rate data to the hybrid access terminal in one sector** (see Specification, Page 15, Lines 12-25), rather, the combination of U.S. Application No. 10541253, Kolev, and Lee merely disclose the use of Data Rate Control (DRC) for load sharing within a CDMA2000 network (see Lee, Column 2, Lines 14-27). For at least this reason, claim 8 should be patentable and the rejection should be withdrawn.

Further, claim 8 depends, either directly or indirectly, from claim 1, includes further important limitations, and is patentable over U.S. Application No. 10541253, Kolev, and Lee for at least the reason above with respect to claim 1, and the rejection should be withdrawn.

Claims 9-10 and 18-19 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 9 and 10 of the copending Application No. 10541253 in view of Kolev et al. (U.S. Patent No. 6,125,283 B1) and further in view of Ling (U.S. Patent No. 5,412,686). Applicants respectfully traverse this rejection.

With respect to claims 10 and 19, applicants respectfully submit the combination of U.S. Application No. 10541253, Kolev, and Ling does not disclose the transmission of **a pilot signal having the greatest intensity** from a wireless base station, rather, the combination of U.S. Application No. 10541253, Kolev, and Ling discloses the use of a pilot signal to facilitate coherent detection of transmitted signal. For at least this reason, claims 10 and 19 should be patentable and the rejection should be withdrawn.

Further, claims 9-10 and 18-19 depend, either directly or indirectly, from claims 1 and 11, include further important limitations, and are patentable over U.S. Application No. 10541253, Kolev, and Ling for at least the reason above with respect to claims 1 and 11, and the rejection should be withdrawn.

Claim 12 is provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claim 1 of the copending Application No. 10541253 in view of Kolev et al. (U.S. Patent No. 6,125,283 B1) and further in view of Thauvin et al. (U.S. Patent No. 6,360,109). Applicants respectfully traverse this rejection.

Claim 12 depends, either directly or indirectly, from claim 11, includes further important limitations, and is patentable over U.S. Application No. 10541253, Kolev, and Thauvin for at least the reason above with respect to claim 11, and the rejection should be withdrawn.

Claim 15 is provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claim 1 of the copending Application No. 10541253 in view of Kolev et al. (U.S. Patent No. 6,125,283 B1) and further in view of Thauvin et al. (U.S. Patent No. 6,360,109) and still further in view of Abrol et al (U.S. Patent No. 7,068,669). Applicants respectfully traverse this rejection.

Claim 15 depends, either directly or indirectly, from claim 11, includes further important limitations, and is patentable over U.S. Application No. 10541253, Kolev, Thauvin, and Abrol for at least the reason above with respect to claim 11, and the rejection should be withdrawn.

All rejections having been addressed, it is respectfully submitted that the present application should be in condition for allowance and a Notice to that effect is earnestly solicited.

Early issuance of a Notice of Allowance is courteously solicited.

The Examiner is invited to telephone the undersigned, Applicant's attorney of record, to facilitate advancement of the present application.

To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 07-1337 and please credit any excess fees to such deposit account.

Respectfully submitted,

LOWE HAUPTMAN HAM & BERNER, LLP

/Yoon S Ham/  
Yoon S. Ham  
Registration No. 45,307

1700 Diagonal Road, Suite 300  
Alexandria, Virginia 22314  
(703) 684-1111  
(703) 518-5499 Facsimile  
Date: November 18, 2008